

FILED

AO 106 (Rev. 01/09) Application for a Search Warrant

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT

for the
District of New Mexico

AUG 22 2019

MITCHELL R. ELFERS
CLERKIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)Elijah ORTIZ
Date of Birth: XX/XX/1970
SSN: XXX-XX-3401

Case No. 19mr1009

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the _____ District of _____ New Mexico (identify the person or describe property to be searched and give its location): **See Attachment A**

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized): **See Attachment B**

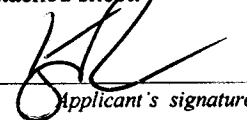
The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of 18 U.S.C. § 922(G)(1), and the application is based on these facts: **See Attached Affidavit**

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Kacy Ramos, Task Force Officer
Printed name and title

Sworn to before me and signed in my presence.

Date: 08.22.2019

City and state: Albuquerque, NM



B. Paul Briones
U.S. Magistrate Judge
Printed name and title

AFFIDAVIT FOR SEARCH WARRANT

1. I, Kacy Ramos, a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, deposes and states:
2. I am a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). I have been a member of the ATF Task Force since January of 2018. I am an investigative, or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510 (7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Title 18 and 26, United States Code.
3. I am a certified Law Enforcement Officer in the State of New Mexico and have been so for over eleven years. I attended and graduated an accredited law enforcement academy within the State of New Mexico. My training and experience has involved, among other things: (1) the debriefing of defendants, witnesses and informants, as well as others who have knowledge of the purchase, possession, distribution, and transportation of firearms and of the laundering and concealment of proceeds of firearms and drug trafficking; (2) surveillance; (3) analysis and processing of documentary, electronic, and physical evidence; (4) the legal and illegal purchase of firearms; (5) the execution of arrest and search warrants seeking firearms and narcotics (6) and firearms trafficking.
4. The statements contained in this affidavit are based, in part, on information provided by Special Agents and/or Task Force Officers of the ATF and other law enforcement officers, and on my background and experience as a Task Force Officer of the ATF.
5. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

IDENTIFICATION OF THE INDIVIDUAL TO BE SEARCHED

1. The individual to be searched is Elijah ORTIZ, with a date of birth of XX/XX/1970 and a Social Security Number of XXX-XX-3401. He is further described as a Hispanic American male, approximately 5'10" tall and 240 pounds in weight.
2. The applied-for warrant would authorize the taking of buccal cells from Elijah ORTIZ with the use of oral swabs, which would then be forwarded to a law enforcement forensic laboratory for DNA analysis.

PROBABLE CAUSE

3. On August 2nd, 2019 TFO Ramos learned of the arrest of Elijah ORTIZ by the Albuquerque Police Department in the city of Albuquerque. It should be noted that during the course of this investigation it was discovered that Elijah Ortiz's is formerly known as Gustavo AZCUENAGA. TFO Ramos located a civil proceeding (CV2013-3520) in which ACUENAGA successfully petitioned the Second Judicial District Court of New Mexico to change his name from Gustavo AZCUENAGA to Elijah ORTIZ.

4. Based upon reading the police reports TFO Ramos learned that Albuquerque Police Field Services Bureau Officers were dispatched to 8500 Bluewater Rd NW, Albuquerque, NM 87121 regarding one employee threatening another employee with a firearm.
5. Officers arrived and made contact with ORTIZ who had been accused by another employee of brandishing a firearm during verbal dispute.
6. ORTIZ acknowledged that he lift his shirt to infer that he had a gun, but denied that he actually possessed a gun. ORTIZ submitted to a pat down and no weapon was located. Officers also checked ORTIZ's work locker and no weapon was located. ORTIZ told officers he was as convicted felon and barred from possessing a firearm.
7. Officers made contact with Jerod Brunelle who explained that ORTIZ brandished a firearm, which was on his hip, when the two parties were involved in a verbal argument. Jerod described the firearm as black, and as being inside a holster on the right hip of ORTIZ.
8. Officers contacted James Sierra who was observed speaking with ORTIZ after the incident occurred. While speaking with officers Sierra denied that he took possession of the gun from ORTIZ and said he took the bus to work and therefore had no vehicle.
9. Officers checked surveillance video which showed James walking to a truck in the parking lot of the business shortly after the incident occurred. James was confronted with the information and eventually admitted that he received a gun from ORTIZ, which he placed in his vehicle.
10. James said ORTIZ approached him and handed him the gun and made a statement about Jerod. James then put the gun in his vehicle. James gave officers permission to retrieve the firearm which was located underneath the driver's seat.
11. The firearm in question was identified by officers as a black Glock handgun with a holster, two magazines, and 9mm ammunition.
12. ORTIZ was confronted with this information after which he requested an attorney and refused to speak with officers. ORTIZ was placed under arrest by officers and booked on local state charges.
13. Upon investigation TFO Ramos learned that ORTIZ, under the name of Gustavo AZCUENAGA, has been convicted of felonies in the following causes: D-202-1994-00836 (Trafficking Controlled Substances) out of the Second Judicial District Court of New Mexico; D-202-CR-200301602 (Tampering with Evidence) out of the Second Judicial District Court of New Mexico; D-202-CR-2004-00340

(Homicide by Vehicle) out of the Second Judicial District Court of New Mexico; D-202-CR-2008-05901 (Aggravated Battery with Deadly Weapon/Great Bodily Harm) out of the Second Judicial District Court of New Mexico: 95CR:00583 (Racketeering, Conspiracy to Distribute Cocaine and Phencyclidine) out of the United District Court in the State of New Mexico.

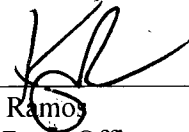
TECHNICAL TERMS

14. Based on my training and experience, your affiant used the following technical terms to convey the following meanings:
 - a. DNA (deoxyribonucleic acid) carries design information between generations, and thus accounts for inherited biological traits (phenotypes). At conception, a father's sperm injects a set of DNA molecules into a mother's egg, which already contains a nearly matching set. Those molecules contain the designs for all the material components their child needs for growth, development, and daily living.
 - b. Buccal: pertaining to the inside of the cheek, the surface of a tooth, or the gum beside the cheek.
15. Based on my training, experience, research, and from consulting with individuals employed by forensic laboratories, it is common for individuals to transfer biological materials containing their specific DNA on the objects handled by those individuals.

CONCLUSION

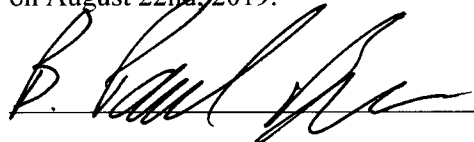
16. I submit that this affidavit supports probable cause for a search warrant authorizing the collection of buccal cells for forensic analysis from Gustavo ORTIZ to determine specific DNA for comparison with specific DNA recovered from the above described items and potentially other recovered evidence for use as evidence in court.

Respectfully submitted,



Kacy Ramos
Task Force Officer
ATF

Subscribed and sworn to before me
on August 22nd, 2019:



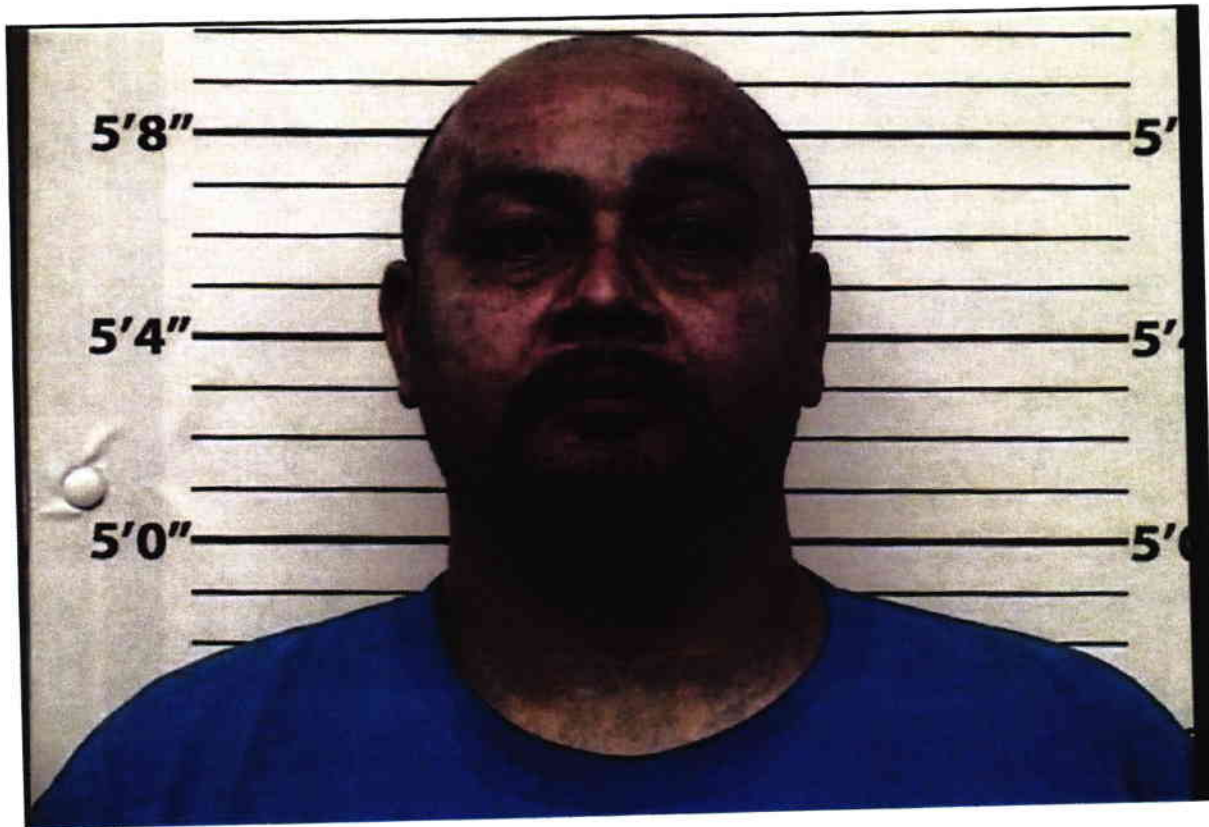
UNITED STATES MAGISTRATE JUDGE

Attachment A

DESCRIPTION OF PERSON TO BE SEARCHED

The person known as Elijah ORTIZ, Date of Birth: XX/XX/1970, SSN: XXX-XX-3401

See below picture



Attachment B

DESCRIPTION OF EVIDENCE TO BE SEARCHED FOR AND SEIZED

DNA evidence from Elijah ORTIZ to wit; Buccal cell swabs, sufficient for DNA analysis, which would be material evidence in a criminal prosecution.